IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	KEITH O. COWAN ET AL	)	
		)	
SERIAL NO.:	10/743,848	)	ART UNIT: 2165
FILED:	December 22, 2003	)	
		)	
		)	EXAMINER:
FOR:	METHODS, SYSTEMS AND STORAGE MEDIUM FOR DISTRIBUTING CONTENT BASED ON USER COMMUNITIES	)	Pulliam

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

REAL PARTY IN INTEREST

The real party in interest is AT&T Intellectual Property I, L.P., an entity owning certain assets of BellSouth Intellectual Property Corporation, the assignee of record.

RELATED APPEALS AND INTERFERENCES

There are no pending appeals or interferences related to this appeal.

STATUS OF CLAIMS

Claims 4, 13, 17, 20 and 21 have been canceled.

Claims 1-3, 5-12, 14-16, 18, 19 and 22-25 stand finally rejected.

The rejections of claims 1-3, 5-12, 14-16, 18, 19 and 22-25 are herein appealed.

STATUS OF AMENDMENTS

There have been no amendments filed after the final rejection mailed October 3, 2008.

SUMMARY OF CLAIMED SUBJECT MATTER

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal is provided below.

Independent claim 1 recites a method of distributing content to consumers, the method comprising: allowing a consumer to join a community (Figure 3; paragraph [0024]); monitoring access to content by members of the community (paragraphs [0028]-[0029]), the monitoring being performed by a grid computing platform (Figure 1, element 24) implemented by a plurality of geographically dispersed network elements (Figure 1, element 21), the grid computing platform executing a grid application to control resources within a distribution network (Figure 1, element 20; paragraphs [0017] and [0018]), the content being broadcast television programming (paragraph [0022]); determining a community interest in the content in response to members of the community accessing the content (paragraphs [0028]-[0029]); automatically distributing the content to the consumer over the distribution network in response to the community interest (paragraph [0029]); and storing the broadcast television programming on a consumer digital video recorder (Figure 1, element 28) accessible over a consumer network (Figure 1, element 26) in communication with the distribution network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content (paragraphs [0028]-[0030]).

Independent claim 7 recites a system for distributing content to consumers, the system comprising: a network element (Figure 1, element 21) receiving a request from a consumer to join a community; a database (paragraph [0024]) coupled to the network element maintaining records of one or more communities associated with the consumer; a consumer network (Figure 1, element 26) in communication with the network element; the network element monitoring access to content by members of the community (paragraphs [0028]-[0029]), the content being broadcast television programming (paragraphs [0022]); the network element determining a community interest in the content in response to members of the community accessing the content (paragraphs [0028]-[0029]); the network element automatically distributing the content to the consumer network in response to the community interest (paragraphs [0029]), the consumer network storing the broadcast television programming on a consumer digital

video recorder (Figure 1,element 28) accessible over the consumer network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content (paragraphs [0028]-[0030]); and the network element being part of a grid computing platform (Figure 1, element 24) implemented by a plurality of geographically dispersed network elements, the grid computing platform executing a grid application to control resources within a distribution network (Figure 1, element 20, paragraphs [0017]-[0018]).

Independent claim 14 recites a storage medium encoded with machine-readable computer program code for distributing content to consumers, the storage medium including instructions for causing at least one network element (Figure 1, element 21) to implement a method comprising: allowing a consumer to join a community (Figure 3; paragraph [0024]); monitoring access to content by members of the community (paragraphs [0028]-[0029]), the monitoring being performed by a grid computing platform (Figure 1, element 24) implemented by a plurality of geographically dispersed network elements (Figure 1, element 21), the grid computing platform executing a grid application to control resources within a distribution network (Figure 1, element 20; paragraphs [0017] and [0018]), the content being broadcast television programming (paragraph [0022]); determining a community interest in the content in response to members of the community accessing the content (paragraphs [0028] – [0029]); automatically distributing the content to the consumer over the distribution network in response to the community interest (paragraph [0029]); and storing the broadcast television programming on a consumer digital video recorder (Figure 1, element 28) accessible over a consumer network (Figure 1, element 26) in communication with the distribution network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content (paragraphs [0028]-[0030]).

Independent claim 22 recites a controller (Figure 2, element 30) for controlling distribution of content, the controller comprising: a processor executing a grid application as part of a grid computing platform implemented by a plurality of geographically dispersed network elements, the grid computing platform executing a grid application to control resources within a distribution network (Figure 1, element 20; paragraphs [0017]

and [0018]), the processor executing processing including: receiving input from a consumer to join a community (Figure 3, paragraph [0024]); receiving content having a community interest in the content in response to members of the community accessing the content (paragraphs [0028] and [0029]), the content being broadcast television programming (paragraph [0022]); and notifying the consumer that the content is available for storage on a storage device (Figure 1, element 28) accessible over a consumer network (Figure 1, element 26) in communication with the distribution network, the notifying based on the community the consumer joined and the community interest in the content (Paragraphs [0028]-[0030]).

The above exemplary embodiments are discussed with respect to the aforementioned independent claims by way of example only and are not intended to in any way limit the scope of these claims.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-4, 6-10, 12-17, 19, 20 and 22-25 were rejected under 35 U.S.C. § 103 as being unpatentable over Knight in view of Pea and Lynn.

Claims 5, 11 and 18 were rejected under 35 U.S.C. § 103 as being unpatentable over Knight in view of Pea and Lynn and Levinson.

ARGUMENT

I. Rejection of claims 1, 6, 7, 10, 12, 14, 19, 23, 24 and 25

Claims 1, 6, 7, 10, 12, 14, 19, 24 and 25 were rejected under 35 U.S.C. § 103 as being unpatentable over Knight in view of Pea and Lynn. This rejection is traversed for the following reasons.

Claim 1 recites, *inter alia,* "storing the broadcast television programming on a consumer digital video recorder accessible over a consumer network in communication with the distribution network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content." None of Knight, Pea and Lynn teaches or suggests these features.

Knight fails to teach "storing the broadcast television programming on a consumer digital video recorder accessible over a consumer network in communication with the distribution network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content." In Knight, a user is directed to newsgroups or message boards based on interests, but Knight is not related to broadcast television programming and storage on a consumer digital video recorder. Knight teaches downloading message board messages, not broadcast programming.

Further, Knight does not teach or suggest storing content on a consumer device without the consumer initiating the storing, the storing based on **community interest in the content**. In Knight, messages corresponding to information categories of interest to a particular user are downloaded automatically. Knight expressly teaches that these automatically downloaded messages are of "most interest to the particular user." (Column 6, lines 32-38). There is no teaching in Knight that content is automatically downloaded based on **community interest in the content.** In other words, Knight performs the automatic download based on the interests of a single particular user. Claim 1, by contrast, stores content without the consumer initiating storage based on community interest in the content, not just a single user.

Pea was relied upon for allegedly disclosing a grid computing platform, but fails to cure the deficiencies of Knight discussed above.

Lynn teaches a system for collecting video from a multitude of sources and indexing the video on a central repository. Users can then locate video of interest through a search index. As described in column 15, lines 22 – 42, the user can browse or search through the index of video. There is no automatic delivery to the user. The video is automatically collected and indexed to the central content distribution network. There is no "storing the broadcast television programming on a consumer digital video recorder . . . without the consumer initiating the storing. Further, Lynn makes no reference to using "community interest" in content and thus cannot teach "storing based on the community the consumer joined and the community interest in the content."

None of Knight, Pea and Lynn teaches or suggests "storing the broadcast television programming on a consumer digital video recorder accessible over a consumer

network in communication with the distribution network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content." Thus, even if Knight, Pea and Lynn are combined the features of claim 1 cannot result.

For at least the above reasons, claim 1 is patentable over Knight in view of Pea and Lynn. Claims 6, 24 and 25 variously depend from claim 1 and are patentable over Knight in view of Pea and Lynn for at least the reasons advanced with reference to claim 1.

Claim 7 recites "the network element automatically distributing the content to the consumer network in response to the community interest, the consumer network storing the broadcast television programming on a consumer digital video recorder accessible over the consumer network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content." As noted above, none of Knight, Pea and Lynn teaches or suggests these features. Claim 7 is patentable over Knight in view of Pea and Lynn. Claims 10, 12 and 23 variously depend from claim 7 and are patentable over Knight in view of Pea and Lynn for at least the reasons advanced with reference to claim 1.

Claim 14 recites "automatically distributing the content to the consumer over the distribution network in response to the community interest; and storing the broadcast television programming on a consumer digital video recorder accessible over a consumer network in communication with the distribution network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content." As noted above, none of Knight, Pea and Lynn teaches or suggests these features. Claim 14 is patentable over Knight in view of Pea and Lynn. Claim 19 depends from claim 14 and is patentable over Knight in view of Pea and Lynn for at least the reasons advanced with reference to claim 14.

II. Rejection of claims 2, 8 and 15

Claims 2, 8 and 15 recite "the community interest is determined based on a percentage of members in the community that have accessed the content." The Examiner relies on Knight as teaching collecting certain statistics regarding which users have

accessed content and using those statistics to form new subject areas (column 6, lines 38-53). Knight fails to teach using these statistics as a community interest that is a factor in automatically distributing content to a consumer. Claims 2, 8 and 15 must be interpreted in light of the respective claims upon which they depend, which recite that the content is automatically distributed in response to the community interest. The statistics cited by the Examiner play no role in the automatic distribution of content. Thus, the combination of Knight, Pea and Lynn fails to teach the elements of claims 2, 8 and 15.

II. Rejection of claims 3, 9 and 16

Claims 3, 9, 16 recite "the community interest is compared to a reference to initiate the automatically distributing." The Examiner relies on Knight column 6, lines 33-67 as allegedly teaching this feature. This section of Knight teaches downloading messages to a user based on that user's interests (column 6, lines 33-37). The remainder of this section relates to statistics that may be collected related to users accessing certain content, with no relevance to the automatic distribution of content. Claims 3, 9 and 16 must be interpreted in light of the respective claims upon which they depend, which recite that the content is automatically distributed in response to the community interest. The combination of Knight, Pea and Lynn simply fails to teach the elements of claims 3, 9 and 16.

III. Rejection of claim 22

Claim 22 recites "receiving content having a community interest in the content in response to members of the community accessing the content, the content being broadcast television programming; and notifying the consumer that the content is available for storage on a storage device accessible over a consumer network in communication with the distribution network, the notifying based on the community the consumer joined and the community interest in the content." In applying the references, the Examiner relies on Knight as allegedly teaching these features. Knight fails to teach distributing content based on a community interest in the content. Knight automatically downloads messages to a user based on informational categories designated as being of interest to a single user (column 6, lines 33-38). There is no "community interest" used

in Knight to deliver content. The combination of Knight, Pea and Lynn simply fails to teach the elements of claims 3, 9 and16.

IV. Rejection of claims 5, 11 and 18

Claims 5, 11 and 18 were rejected under 35 U.S.C. § 103 as being unpatentable over Knight in view of Pea and Lynn and Levinson. This rejection is traversed for the following reasons.

Levinson was relied upon for disclosing billing a consumer upon the consumer accessing content, but fails to cure the deficiencies of Knight and Pea and Lynn discussed above. Levinson fails to teach "storing the broadcast television programming on a consumer digital video recorder accessible over a consumer network in communication with the distribution network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content." Claims 5, 11 and 18 depend from claims 1, 7 and 14 and are patentable over Knight in view of Pea and Lynn and Levinson for at least the reasons advanced with reference to claims 1, 7 and 14.

V. Conclusion

In view of the foregoing, it is respectfully requested that the appealed rejections be reversed.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fee be charged to Deposit Account No. 06-1130.

Respectfully submitted,

By: _____

David A. Fox
Registration No. 38,807
CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford, CT 06103-3207
Telephone (860) 286-2929
Facsimile (860) 286-0115
Customer No. 36192

Date: March 4, 2009

CLAIM APPENDIX

1. A method of distributing content to consumers, the method comprising:

allowing a consumer to join a community;

monitoring access to content by members of the community, the monitoring being performed by a grid computing platform implemented by a plurality of geographically dispersed network elements, the grid computing platform executing a grid application to control resources within a distribution network, the content being broadcast television programming;

determining a community interest in the content in response to members of the community accessing the content;

automatically distributing the content to the consumer over the distribution network in response to the community interest; and

storing the broadcast television programming on a consumer digital video recorder accessible over a consumer network in communication with the distribution network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content.

2. The method of claim 1 wherein:

the community interest is determined based on a percentage of members in the community that have accessed the content.

3. The method of claim 2 wherein:

the community interest is compared to a reference to initiate the automatically distributing.

5. The method of claim 1 further comprising:

notifying the consumer that the content is available on the consumer storage device; and

billing the consumer upon the consumer accessing the content on the consumer storage device.

6. The method of claim 1 wherein:

the automatically distributing the content is dependent on a consumer preference to receive automatically distributed content.

7. A system for distributing content to consumers, the system comprising:

a network element receiving a request from a consumer to join a community;

a database coupled to the network element maintaining records of one or more communities associated with the consumer;

a consumer network in communication with the network element;

the network element monitoring access to content by members of the community, the content being broadcast television programming;

the network element determining a community interest in the content in response to members of the community accessing the content;

the network element automatically distributing the content to the consumer network in response to the community interest, the consumer network storing the broadcast television programming on a consumer digital video recorder accessible over the consumer network without the consumer initiating the storing, the storing based on the community the consumer joined and the community interest in the content; and

the network element being part of a grid computing platform implemented by a plurality of geographically dispersed network elements, the grid computing platform executing a grid application to control resources within a distribution network.

8. The system of claim 7 wherein:

the community interest is determined based on a percentage of members in the community that have accessed the content.

9. The system of claim 8 wherein:

the community interest is compared to a reference to initiate the automatically distributing.

10. The system of claim 7 wherein:

the consumer network includes a consumer storage device; and

the network element automatically distributing the content to the consumer storage device associated with the consumer.

11. The system of claim 10 wherein:

the network element notifies the consumer that the content is available on the consumer storage device; and

the network element billing the consumer upon the consumer accessing the content on the consumer storage device.

12. The system of claim 7 wherein:

the network element automatically distributes the content in dependence on a consumer preference to receive automatically distributed content.

14. A storage medium encoded with machine-readable computer program code for distributing content to consumers, the storage medium including instructions for causing at least one network element to implement a method comprising:

allowing a consumer to join a community;

monitoring access to content by members of the community, the monitoring being performed by a grid computing platform implemented by a plurality of geographically dispersed network elements, the grid computing platform executing a grid application to control resources within a distribution network, the content being broadcast television programming;

determining a community interest in the content in response to members of the community accessing the content;

automatically distributing the content to the consumer over the distribution network in response to the community interest; and

storing the broadcast television programming on a consumer digital video recorder accessible over a consumer network in communication with the distribution network without the consumer initiating the storing, the storing based on the community

the consumer joined and the community interest in the content.

15. The storage medium of claim 14 wherein:

the community interest is determined based on a percentage of members in the community that have accessed the content.

16. The storage medium of claim 15 wherein:

the community interest is compared to a reference to initiate the automatically distributing.

18. The storage medium of claim 14 further comprising instructions for causing at least one network element to implement:

notifying the consumer that the content is available on the consumer storage device; and

billing the consumer upon the consumer accessing the content on the consumer storage device.

19. The storage medium of claim 14 wherein:

the automatically distributing the content is dependent on a consumer preference to receive automatically distributed content.

22. A controller for controlling distribution of content, the controller comprising:

a processor executing a grid application as part of a grid computing platform implemented by a plurality of geographically dispersed network elements, the grid computing platform executing a grid application to control resources within a distribution network, the processor executing processing including:

receiving input from a consumer to join a community;

receiving content having a community interest in the content in response to members of the community accessing the content, the content being broadcast television programming; and

notifying the consumer that the content is available for storage on a storage device

accessible over a consumer network in communication with the distribution network, the notifying based on the community the consumer joined and the community interest in the content.

23. The system of claim 7 wherein the grid computing platform includes a plurality of network elements including set-top boxes, consumer storage devices and network storage devices.

24. The method of claim 1 wherein the grid computing platform determines when to store a video program in response to customer preference and customer viewing habits.

25. The method of claim 24 wherein the grid computing platform determines where to store the video program across a plurality of network elements, including storing the video program on a consumer storage device.

EVIDENCE APPENDIX

Not Applicable

RELATED PROCEEDINGS APPENDIX

Not Applicable